national's home state, and monitor the fairness of the proceedings. This type of assistance ought not be underestimated given the difficulties and disadvantages experienced by many foreign nationals facing criminal proceedings abroad. *Id.*; *see* 7 Foreign Affairs Manual §§ 400-426.2-1 (2004), *available at* http://foia.state.gov/REGS/fams.asp?level=2&id=8&fam=0.

The United States has long recognized that the Vienna Convention provides vital safeguards to persons imprisoned by a contracting State. In the *Diplomatic and Consular Staff* case, the United States contended:

> [A] principal function of the consular officer is to provide varying kinds of assistance to nationals of the sending State, and for this reason, the channel of communication between consular officers and nationals must at all times remain open. Indeed, such communication is so essential to the exercise of consular functions that its preclusion would render meaningless the entire establishment of consular relations.

Memorial of the United States, *Case Concerning United States Diplomatic and Consular Staff in Tehran*, (*U.S.* v. *Iran*), 1980 I.C.J. Pleadings 174 (Jan. 12); *see also* William J Aceves, Abstract, *The Vienna Convention on Consular Relations: A Study of Rights, Wrongs, and Remedies*, 31 Vand. J. Transnat'l L. 257, 271 (1998) (noting that the United States used the treaty to gain access to two American citizens imprisoned in Syria in 1975). In recognition of the importance of the protections afforded by the Convention, the State Department has gone so far as to assert that "[c]onsular notification ... is a universally accepted, basic obligation that should be extended even to foreign nationals who do not benefit from the [Convention] or from any other applicable bilateral agreement." Dep't of State, *Consular Notification and Access* 44 (1998), *available at* http://www.travel.state.gov/pdf/CNA_book.pdf.

The enforcement of these Vienna Convention protections is of vital importance to *amici*. More than 200,000

Honduran nationals, such as petitioner, live in the United States. *See* Table FBP-1, *Profile of Selected Demographic and Social Characteristics: 2000 (Honduras), available at* http://www.census.gov/population/cen2000/stp-159/stp159-honduras.xls (2000) (last visited Sept. 20, 2005). More than eight million nationals of *amici* nations live in the United States. *See id. (Argentina, Bolivia, El Salvador, Honduras, Mexico).*[4] And still thousands more travel in the United States every year. Compliance by the United States, and, absent compliance, the availability of remedies for violations, are essential if the protections offered by the Vienna Convention are to be meaningful for the many foreign nationals of *amici* nations in the United States.

B. Violations Of The Vienna Convention, And The Treatment Of Claims Of Such Violations By United States Courts, Are Matters Of Continuing Concern To *Amici*

In the United States, violations of Article 36 are an ongoing problem. Recent federal efforts to promote compliance by the States have come up well short. In January 1998, the State Department issued a booklet of guidelines to encourage local law enforcement officers to fulfill their Vienna Convention obligations. *Consular Notification and Access, supra.* But the numerous cases involving allegations of Convention violations suggest that the problem persists. *See, e.g., United States* v. *Gonzales*, 339 F.3d 725, 729 (8th Cir. 2003); *United States* v. *Cazares*, 60 Fed. Appx. 223, 226 (10th Cir. 2003) (unpublished); *United States* v. *Ortiz*, 315 F.3d 873, 881 (8th Cir. 2002); *United States* v. *Gamez*, 301 F.3d 1138, 1144 (9th Cir. 2002); *United States* v. *Contreras-Cortez*, 41 Fed. Appx. 252, 255 (10th Cir. 2002) (unpub-

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[4] *Available at* http://www.census.gov/population/cen2000/stp-159/stp159-argentina.xls, http://www.census.gov/population/cen2000/stp-159/stp159-bolivia.xls, http://www.census.gov/population/cen2000/stp-159/stp159-el_salvador.xls, http://www.census.gov/population/cen2000/stp-159/STP-159-Mexico.xls (last visited September 20, 2005). Census data is not available for *amici* Republic of Paraguay and Oriental Republic of Uruguay.

lished); *United States* v. *Guerrero*, 45 Fed. Appx. 265, 266 (4th Cir. 2002) (unpublished); *United States* v. *Felix-Felix*, 275 F.3d 627, 632 (7th Cir. 2001); *United States* v. *Emuegbunam*, 268 F.3d 377, 387 (6th Cir. 2001); *United States* v. *Minjares-Alvarez*, 264 F.3d 980, 983 (10th Cir. 2001); *United States* v. *Beckford*, 2000 U.S. App. LEXIS 6752, at *40 (4th Cir. 2000) (unpublished).

Given the apparent lack of success in the State Department's public education efforts to prevent violations of Article 36, the question whether the United States will provide an effective *judicial* remedy for violations of the individual rights secured by Article 36 is significant and pressing, and is of continuing concern to *amici*. This Court has yet to address that issue in a case granted for plenary review. The closest it has come is its *per curiam* opinion denying certiorari in *Breard* v. *Greene*, 523 U.S. 371 (1998).[5] In that case, the Court did not consider whether the Convention creates individually enforceable rights. Rather, the Court disposed of the case by concluding that Breard had procedurally defaulted his Vienna Convention claim by failing to raise it in state court, and that the application of the procedural default rule in that circumstance appeared consistent with Article 36. *Id.* at 375-376.

At the time of this Court's denial of certiorari in *Breard*, the ICJ had not yet addressed either of these issues.[6] Since

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[5] The Court granted certiorari to address these and related issues last Term in *Medellin* v. *Dretke*, 125 S. Ct. 686 (2004), but did not resolve those issues because of procedural complexities in that case. *See Medellin* v. *Dretke*, 125 S. Ct. 2088 (2005). Those complexities are not present in this case, as the petition for certiorari explains (at 20-21).

[6] Just before this Court's denial of certiorari in *Breard*, the ICJ issued an "order indicating provisional measures" in a case brought by Paraguay (Breard's country of nationality) against the United States, stating that the United States "should take all measures at its disposal to ensure that . . . Breard is not executed pending the final decision in these proceedings." *Vienna Convention of Consular Relations (Paraguay* v. *U.S.)*, 1998 I.C.J. 248, 258 (Apr. 9) (Provisional Measures Order). That order by the ICJ, however, did not resolve the merits of the controversy

Breard, the ICJ, the body charged by signatories to the Optional Protocol with interpreting the Vienna Convention, has issued decisions regarding the remedies available for such violations. *See Avena and Other Mexican Nationals (Mex. v. U.S.)*, 2004 I.C.J. 128 (Mar. 31); *LaGrand Case (F.R.G. v. U.S.)*, 2001 I.C.J. 466 (June 27). As noted above, in *Avena* and *LaGrand*, the ICJ ruled that the Convention creates individually enforceable rights and that judicial redress for violations of those rights may not be barred by state procedural default rules.

Courts in this country faced with claims under the Vienna Convention have issued decisions in conflict with one another and with the rulings of the ICJ. Notwithstanding this Court's recognition that "respectful consideration" must be given to the ICJ's interpretation of the Convention as well as the absence of a decision of this Court on point, several lower courts have ruled that the Convention creates no individually enforceable right. *See, e.g., Cardenas* v. *Dretke*, 405 F.3d 244, 253 (5th Cir. 2005); *Emuegbunam*, 268 F.3d at 394; *State* v. *Sanchez-Llamas*, 108 P.3d 573, 578 (Or. 2005), *pet'n for cert. filed* (No. 04-10566, June 7, 2005); *State* v. *Martinez-Rodriguez*, 33 P.3d 267, 274 (N.M. 2001); *Gomez* v. *Commonwealth*, 152 S.W.3d 238, 242 (Ky. Ct. App. 2004). Other courts have adhered to the ICJ's interpretation on this front. *See, e.g., Standt* v. *City of New York*, 153 F. Supp. 2d 417, 427 (S.D.N.Y. 2001); *United States* v. *Chaparro-Alcantara*, 37 F. Supp. 2d 1122, 1125 (C.D. Ill. 1999); *United States* v. *Hongla-Yamche*, 55 F. Supp. 2d 74, 78 (D. Mass. 1999). And some have declined to decide the question. *See, e.g., United States* v. *De La Pava*, 268 F.3d 157, 165 (2d Cir. 2001); *United States* v. *Li*, 206 F.3d 56, 60 (1st Cir. 2000) (*en*

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between Paraguay and the United States but merely sought to preserve the ICJ's jurisdiction over that dispute. Moreover, the Solicitor General advised this Court in *Breard* that the ICJ's order indicating provisional measures was not binding but was precatory—a position later repudiated by the ICJ in the *Germany* case. U.S. *Amicus* Br. 49-50 (Nos. 97-1390 & 97-8214, *Paraguay* v. *Gilmore* and *Breard* v. *Greene*).

banc); *Conde* v. *State*, 860 So. 2d 930, 953 (Fla. 2003). Even where courts have found (or assumed) individually enforceable rights, they have held, contrary to the ICJ but consistent with *Breard*, that such claims can be procedurally defaulted under state law.[7]

The conflicts among the lower state and federal courts provide reason enough for this Court's review. This Court has a unique responsibility to ensure the uniform interpretation of federal laws. *See Martin* v. *Hunter's Lessee*, 14 U.S. (1 Wheat.) 304, 347-348 (1816) (recognizing "the importance, and even necessity of *uniformity* of decisions throughout the whole United States"). But in addition, uniformity is at a premium in the context of treaty interpretation because of the consequences for foreign affairs. *See, e.g., Block* v. *Compagnie Nationale Air France*, 386 F.2d 323, 337-338 (5th Cir. 1967). When nations such as *amici* treat with the United States on important matters such as the right to consular notification, it is essential that they have assurance that the United States will be able to ensure compliance with its treaty obligations by all organs of the government. From the perspective of nations such as *amici*, conflicting judicial decisions on the application and interpretation of a treaty undermine this assurance.

In addition, and of critical importance here, nations that enter into treaties with the United States necessarily rely on the United States government's assurance that States and local governments will comply with their treaty obligations. No less than the federal government, States and localities are bound by treaties to which the United States is a

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[7] Because the Court's decision in *Breard* was a *per curiam* opinion denying a writ of certiorari, it is not entitled to the same precedential weight as an opinion rendered upon this Court's plenary consideration. *See Teague* v. *Lane*, 489 U.S. 288, 296 (1989) ("The variety of considerations [that] underlie denials of the writ counsels against according denials of certiorari any precedential value. Concomitantly, opinions accompanying the denial of certiorari cannot have the same effect as decisions on the merits." (citations omitted)).

signatory. *See* U.S. Const. art. VI ("[A]ll Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land[.]"). Indeed, in the very first decision of this Court that exercised the power of judicial review to invalidate legislation, this Court ruled that a treaty prevailed over conflicting state law. Because "[a] treaty cannot be the supreme law of the land, that is of all the United States, if any act of a State Legislature can stand in its way," courts are under a "declared duty ... to determine any Constitution, or laws of any State, contrary to [a treaty] made under the authority of the United States, null and void." *Ware* v. *Hylton*, 3 U.S. (3 Dall.) 199, 236-237 (1796).

While *amici* fully appreciate the complexities of the federal system of government established by the United States Constitution, they also look to the Supremacy Clause's assurance that treaties are binding throughout the United States when they enter into treaties with the United States. This Court's frequent observation that the United States must speak with "one voice" on matters of foreign affairs, *see, e.g.*, *American Ins. Ass'n* v. *Garamendi*, 539 U.S. 396, 414 (2003); *United States* v. *Pink*, 315 U.S. 203, 242 (1942), daily guides nations such as *amici* in their dealings with the United States government. Accordingly, this Court should grant certiorari to bring clarity and consistency to the United States position on this issue of great consequence for international relations.

C. Fundamental Principles Of International Law Require That Domestic Courts Offer Remedies, Consistent With The ICJ's Interpretation, For Violations Of The Vienna Convention

The failure of courts in this country to provide remedies for Convention violations as required by the ICJ also warrants this Court's attention. This Court's review is needed to reaffirm the United States' commitment to the Vienna Convention and to the principles of reciprocity and comity that are the bedrock of international law.

This Court has long recognized the importance of treaties in the United States' affairs with other nations. *See Murray* v. *The Schooner Charming Betsy*, 6 U.S. (2 Cranch) 64, 118 (1804) ("[A]n act of Congress ought never to be construed to violate the law of nations if any other possible construction remains); *see generally Restatement (Third) of Foreign Relations Law* § 102(1)(b) & cmt. f (1990). In the absence of predictable compliance by all nations, treaties would become mere expressive instruments that could not support orderly and effective state-to-state relations. "'A decent respect for the opinions of mankind,' national honor, harmonious relations between nations, and avoidance of war, require that the contracts and law represented by treaties shall be scrupulously observed, held inviolate, and in good faith precisely performed." *United States* v. *Ferris*, 19 F.2d 925, 926 (N.D. Cal. 1927).

This Court's recognition of the importance of treaties reflects the fundamental importance of reciprocity in international relations. "International law is found upon mutuality and reciprocity," *Hilton* v. *Guyot*, 159 U.S. 113, 228 (1895), and "[w]hat is law for one, is under the same circumstances, law for the other," *United States* v. *Arjona*, 120 U.S. 479, 487 (1887). For the treaty system to work, nations must follow the cardinal rule that treaties must be enforced—*pacta sunt servanda*. *See Restatement (Third) of Foreign Relations Law* § 321 cmt. a (1990). "The doctrine of *pacta sunt servanda* . . . lies at the core of the law of international agreements and is perhaps the most important principle of international law. It includes the implication that international obligations survive restrictions imposed by domestic law." *Id.*

Highlighting the reciprocal nature of Vienna Convention treaty obligations, then-State Department Legal Adviser William H. Taft IV recently remarked that it is both "right and fair" that we comply with our obligations under the treaty. Dep't of State Legal Adviser William H. Taft IV, Remarks to the National Association of Attorneys General (Mar. 20, 2003), *available at* http://usinfo.state.gov/dhr/

Archive/2003/Oct/09-464655.html. The State Department's instructions to local authorities make clear the importance of reciprocity, noting that adherence to the treaty "will permit the United States to comply with its consular legal obligations domestically and to continue to expect rigorous compliance by foreign governments with respect to United States citizens abroad." *Consular Notification and Access*, *supra*, at 13.

As noted, the ICJ has issued decisions interpreting the Vienna Convention and defining the obligations of the United States under that treaty. In *Breard*, the Court observed that no international court had yet interpreted the treaty, and that this Court "should give respectful consideration" to such an interpretation. 523 U.S. at 375. Indeed, the United States has often acknowledged the importance of international courts in resolving treaty disputes. For example, the United States turned to the International Court of Justice ("ICJ") for adjudication of its own Vienna Convention claims in the aftermath of the Tehran hostage crisis. *See Diplomatic and Consular Staff*, *supra*. And each Member of the United Nations undertakes to comply with the decisions of the ICJ in cases to which it is a party. United Nations Charter art. 94, Aug. 8, 1945, 59 Stat. 1031, 3 Bevans 1179.

Because of the important role of treaties in international relations and the significance of the interpretation of treaties by bodies such as the ICJ, this Court should grant certiorari to resolve the apparent conflict between, on the one hand, lower court decisions following *Breard*, and, on the other hand, the holdings of the ICJ in *Avena* and *LaGrand*. The United States adherence to the Convention as interpreted by the ICJ has ramifications not only for the consular system established by the Convention, but also for international relations more generally. This petition presents the Court with an opportunity to reaffirm the United States' commitment to the rule of law in general and to such fundamental principles of international law as reciprocity and comity. In so doing, the Court will not only safeguard the consular sys-

tem, but also will promote the proper functioning of international relations and diplomacy to the benefit of nations and individuals around the world.

II. PETITIONER WAS MATERIALLY PREJUDICED BY VIRGINIA LAW ENFORCEMENT'S FAILURE TO COMPLY WITH THE VIENNA CONVENTION

The importance of the questions of treaty interpretation and international law presented in the petition for certiorari are amplified by the facts of this case. Proper resolution of the question presented would have dramatic consequences for Bustillo. The violation of Article 36 substantially prejudiced Bustillo, as a review of the events and facts of his case makes readily apparent. Indeed, Bustillo's conviction showcases the practical importance to individual foreign nationals of the consular notification provisions established by the Vienna Convention. In the face of this severe prejudice, the state court's error in interpreting the Vienna Convention looms especially large.

At Bustillo's trial, the theory of his defense was that another individual known as "Sirena" (now known to be Julio Osorto), a citizen of Honduras like Bustillo, had been the one to strike and kill the victim outside of a Popeye's restaurant in Springfield, Virginia. The trial came down to the testimony of five witnesses, three testifying that Bustillo was the killer and two saying that Bustillo was not the killer (one of whom identified Sirena as the killer). A defense witness also testified that Sirena had fled to Honduras after the killing and specified the date and flight of Sirena's departure from the U.S. At the time of trial, the defense could not locate Sirena and was not even able to tell the jury Sirena's full name. In light of the lack of additional corroborating evidence for this theory, the prosecution mocked both the defense theory and the defense witnesses' credibility. *See* Pet. 2, 6-7.

Since the trial, Sirena's full name has been determined. And, according to immigration records, Sirena had in fact fled to Honduras after the victim died. Sirena has also been located and, in secretly videotaped conversations, has admit-

ted to striking the victim with a baseball bat. In addition, police reports that have come to light since the trial establish that police stopped Sirena after the crime near where the victim had been bludgeoned with a baseball bat, that Sirena had red stains on his clothes, that he falsely told police he had not been at Popeye's on the night in question (contrary to the Commonwealth's own witnesses), that he gave multiple conflicting stories to police about his whereabouts, and that another witness saw Sirena cock a bat to strike the victim.

As noted above, the Honduran Consulate was not advised of the proceedings against Bustillo until after the trial was complete. After receiving notice, the Consulate submitted a declaration stating that, if it had been notified of Bustillo's case and made aware that the defense believed *another Honduran national* had committed the crime and that a defense witness had provided information pertinent to Sirena's flight to Honduras at trial, it would have provided assistance. Specifically, at the least, the Consulate would have (1) supplied immigration records showing that Sirena entered Honduras the day after the victim died, in conformity with the testimony of the defense witness as to Sirena's flight, (2) provided a photograph of Sirena, and (3) attempted to contact and interview Sirena to assist Bustillo. *See* Habeas Pet. Exs. 26, 26a, 26b.

This assistance would have substantially strengthened the defense case. Most directly, it would have lent credibility and support to the theory of the defense; the defense would have been able to tell the jury Sirena's real name and provide proof of his flight to Honduras immediately following the crime. This evidence would have preempted the prosecution's tactic of mocking the defense's theory of the case and its suggestion that the theory was a fabrication because there was so little corroborating evidence. Moreover, if the Honduran consular officials had known of the situation facing Bustillo and had been able to lend assistance in advance of trial, the very heart of the prosecution's case—witnesses identifying Bustillo as the killer—would have

been undermined. The police showed witnesses Bustillo's photo only. Sirena's photo, ultimately provided by the Honduran consulate, led several witnesses to identify Sirena as the individual who struck the victim. Habeas Pet. Exs. 16, 21, 28, 29, 32. Accordingly, it is quite probable that consular assistance would have caused the trial to come out differently.

In addition, given that habeas counsel, unaided by authorities, was able to secretly secure a self-authenticating confession from Sirena, it seems likely that the Consulate would have been able to provide *some* additional evidence to support Bustillo's case. Speculation as to the types of evidence that would have been available to Bustillo, while it shows the extent of the prejudice and the value of consular assistance, is ultimately unnecessary; even just assuming the photograph and immigration records would have been provided, the substantial prejudice to Bustillo is readily apparent.

The prejudice to Bustillo from the violation of the Convention adds special urgency to the question presented. The prejudice distinguishes this petition from that in *Breard*, where, as the Court observed, "no such showing [of prejudice] could even arguably be made." *Breard*, 523 U.S. at 377.[8] Because of the prejudice, and the corresponding potential consequences of this Court's review for Bustillo, consideration of the question presented ought not be put off until a future case.

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[8] Similarly, in *Medellin*, the Court labeled the lack of prejudice, as evident from a lower court ruling on the question, the "most important[]" obstacle to habeas relief. 125 S. Ct. at 2091.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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IN THE

Supreme Court of the United States

MARIO A. BUSTILLO,

Petitioner,

v.

GENE M. JOHNSON, DIRECTOR
OF THE VIRGINIA DEPARTMENT OF CORRECTIONS,

Respondent.

On Writ of Certiorari to the Supreme Court of Virginia

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PETITION FOR A WRIT OF CERTIORARI FILED – JULY 5, 2005
PETITION FOR A WRIT OF CERTIORARI GRANTED – NOVEMBER 7, 2005

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IN THE
SUPREME COURT OF VIRGINIA

Case No. 042023

MARIO A. BUSTILLO,

PETITIONER,

v.

GENE M. JOHNSON, DIRECTOR OF THE
VIRGINIA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

HABEAS APPEAL

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
07/30/04	Record Received
09/03/04	Petition for Appeal Received
11/12/04	Brief in Opposition Received
02/16/05	Panel Date
03/07/05	Disposition Date Disposition: DISMISSED

IN THE
CIRCUIT COURT OF FAIRFAX COUNTY

Case No. Law 201879
Habeas Corpus
Rule 5:13

MARIO A. BUSTILLO

V.

VIRGINIA DEPT. OF CORRECTIONS, ET AL.

RELEVANT DOCKET ENTRIES

DATE	NO.	PROCEEDINGS
2/6/02	1-66	Petition for a Writ of Habeas Corpus Ad Subjiciendum
2/6/02	67	Motion for Leave to Proceed in Forma Pauperis
2/6/02	68-69	Praecipe with Affidavit
	70-126	Translation Cover [Ex. 10] dated 2/27/99 with attached petition
2/6/02	127	Order * * * Judge Michael P. McWeeny[1]
2/21/02	128	Order * * * Judge Henry E. Hudson

[1] All asterisks in the Relevant Docket Entries appear in the original docket sheets.

DATE	NO.	PROCEEDINGS
3/4/02	129-130	Letter from Attorney Kiyonaga dated 3/1/02 with attached letter from National Commissioner of Human Rights, Honduras
4/2/02	131-132	Motion
4/3/02	133-134	Order * * * Judge Henry E. Hudson
4/29/02	135-157	Brief Amicus Curiae of the Embassy of Honduras in Support of Mario Bustillo
5/3/02	158-159	Addendum to Petition for Writ of Habeas Corpus
5/6/02	160	Amended Certificate of Service
5/6/02	161-253	Motion to Dismiss with attached exhibits
5/13/02	254	Motion for Leave to Amend Petition
5/14/02	255-266	Petitioner's Reply to Motion to Dismiss
5/14/02	267-269	Petitioner's Motion to Admit Polygraph Examination Results with attachment
5/16/02	270-271	Objection to Brief Amicus Curiae
5/17/02	272-276	Respondent's Opposition to Petitioner's Motion for Leave to Amend
5/28/02	277-281	Reply to Respondent's Objections to Brief Amicus Curiae
6/6/02	282-284	Motion for Permission for Foreign Attorney to Appeal (John Anthony Smith, Esq.)
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DATE	NO.	PROCEEDINGS
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8/21/02	296-297	Praecipe
8/21/02	298-303	Petitioner's Motion to Compel Discovery with attachment
	304	Letter dated 8/21/02 to Judge Hudson from Kiyonaga
8/22/02	305-308	Response to Motion for Discovery
8/22/02	310-317	Motion for Clarification with attachments
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8/27/02	320-321	Letter to Counsel from Judge Michael P. McWeeny
8/27/02	322-323	Petitioner's Response to Respondent's Motion for Clarification
9/4/02	324-333	Notice with attached copy of motion
9/5/02	334	Friday Motions Day – Praecipe/ Notice
9/5/02	335	Notice and Motion
9/5/02	336	Friday Motions Day – Praecipe/ Notice
9/5/02	337-341	Notice and Motion with attachment
9/7/02	342-344	Response to Petitioner's Motion to Admit Polygraph Examination Results
9/18/02	345-347	Petitioner's Memorandum in Support of his Motion to Compel Discovery

DATE	NO.	PROCEEDINGS
10/3/02	348-350	Order * * * Judge R. Terrence Ney
10/3/02	351-352	Order Amending Memorandum Opinion * * * Judge R. Terrence Ney
10/17/02	353	Calendar Control Form
10/25/02	354	Friday Motions Day – Praecipe/ Notice
10/25/02	355	Notice and Motion
10/25/02	356-374	Petitioner's Motion for Sanctions with attached exhibits
11/1/02	375-401	Response to Petitioner's Motion for Sanctions and Request for In Camera Review with attachments
	402-404	Letter, Asst. Attorney General Shaffer to Kiyonaga with attachments, dated 11/4/02
11/15/02	405	Order * * * Judge R. Terrence Ney
	406-407	Letter to Mr. Kiyonaga from Asst. Attorney General Shaffer dated 11/20/02
11/22/02	408-409	Motion
11/25/02	410-411	Order * * * Judge R. Terrence Ney
11/26/02	412-413	Letter, Shaffer to Kiyonaga, dated 11/22/02
11/26/02	414-415	Letter, Shaffer to Kiyonaga, dated 11/20/02
11/26/02	416	Order * * * Judge R. Terrence Ney
12/4/02	417-449	Transcript taken 11/15/02 before Judge R. Terrence Ney

DATE	NO.	PROCEEDINGS
1/9/03	450-452	Letter, Shaffer to Mr. Frey, dated 1/8/03 with attached invoice
1/9/03	453-459	Transcript (Partial) taken 12/5/02 before Judge R. Terrence Ney
1/24/03	460-461	Order * * * Judge R. Terrence Ney
/6/03	462-465	Copy of 1/8/03 letter, Shaffer to Mr. Frey with handwritten notes affixed
2/13/03	466-467	Order * * * Judge R. Terrence Ney
2/21/03	468-470	Final Order * * * Judge R. Terrence Ney
3/13/03	471	Suspending Order * * * Judge R. Terrence Ney
3/25/03	472-474	Respondent's Opposition to Petitioner's Motion for Leave to Amend
4/1/03	475-477	Respondent's Opposition to Petitioner's Motion Further to Amend Petition
8/7/03	478-479	Praecipe (Embassy)
9/16/03	480-492	Order with Opinion Letter *** Judge R. Terrence Ney
9/29/03	493-496	Praecipe (Embassy) with attachment
10/20/03	497-499	Praecipe (Embassy)
12/22/03	500	Calendar Control Form
Original filed 3/5/04	501-503	Petitioner's Motion to Preclude Evidence (*Copy-original is missing from file*)
3/9/04	504-506	Response to Petitioner's Motion to "Preclude Respondent Evidence"

DATE	NO.	PROCEEDINGS
3/17/04	507	Order * * * Judge R. Terrence Ney (*Certified Copy-original is missing from file*)
3/18/04	508-509	Order * * * Judge R. Terrence Ney (*Certified Copy-original is missing from file*)
3/22/04	510-524	Letter dated 3/22/04 to Judge Ney from Kiyonaga with attachments
3/23/04	525	Calendar Control Form
Original filed 3/23/04	526-528	Letter dated 3/23/04 to Judge Ney from Kiyonaga with notice and Motion, and Petitioner's Motion for Clarification (*Copy-original is missing from file*)
3/23/04	529	Order * * * Judge R. Terrence Ney
	530	Petitioner's Motion to Quash Subpoena Duces Tecum (Copy)
3/29/04	531-532	Order * * * Judge R. Terrence Ney
3/30/04	533-536	Fax of Letter and Response to Petitioner's Motion to Quash Subpoena
Original filed 3/31/04	537-538	Response to Petitioner's Motion to Quash Subpoena (*Copy-original is missing from file*)
	539-550	Letter to court dated 4/1/04 from Emily Hargrove with attached Praecipe and Motion to Supplement Brief Amicus Curiae in Support of Mario Bustillo (Copies)
4/9/04	551-553	Petitioner's Motion to Keep Record Open